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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SOVEREIGN IÑUPIAT FOR A LIVING
ARCTIC, et al.,

Plaintiffs-Appellants,

v.

BUREAU OF LAND MANAGEMENT, et
al.,

Defendants-Appellees,

and

CONOCOPHILLIPS ALASKA, INC., et al.,
Intervenor-Defendants-Appellees.

No. 23-35226

On Appeal from the
United States District Court for
the District of Alaska

No. 3:23-cv-00058-SLG
Hon. Sharon L. Gleason

CENTER FOR BIOLOGICAL DIVERSITY,
et al.,

Plaintiffs-Appellants,

v.

BUREAU OF LAND MANAGEMENT, et
al.,

Defendants-Appellees,

and

CONOCOPHILLIPS ALASKA, INC., et al.,
Intervenor-Defendants-Appellees.

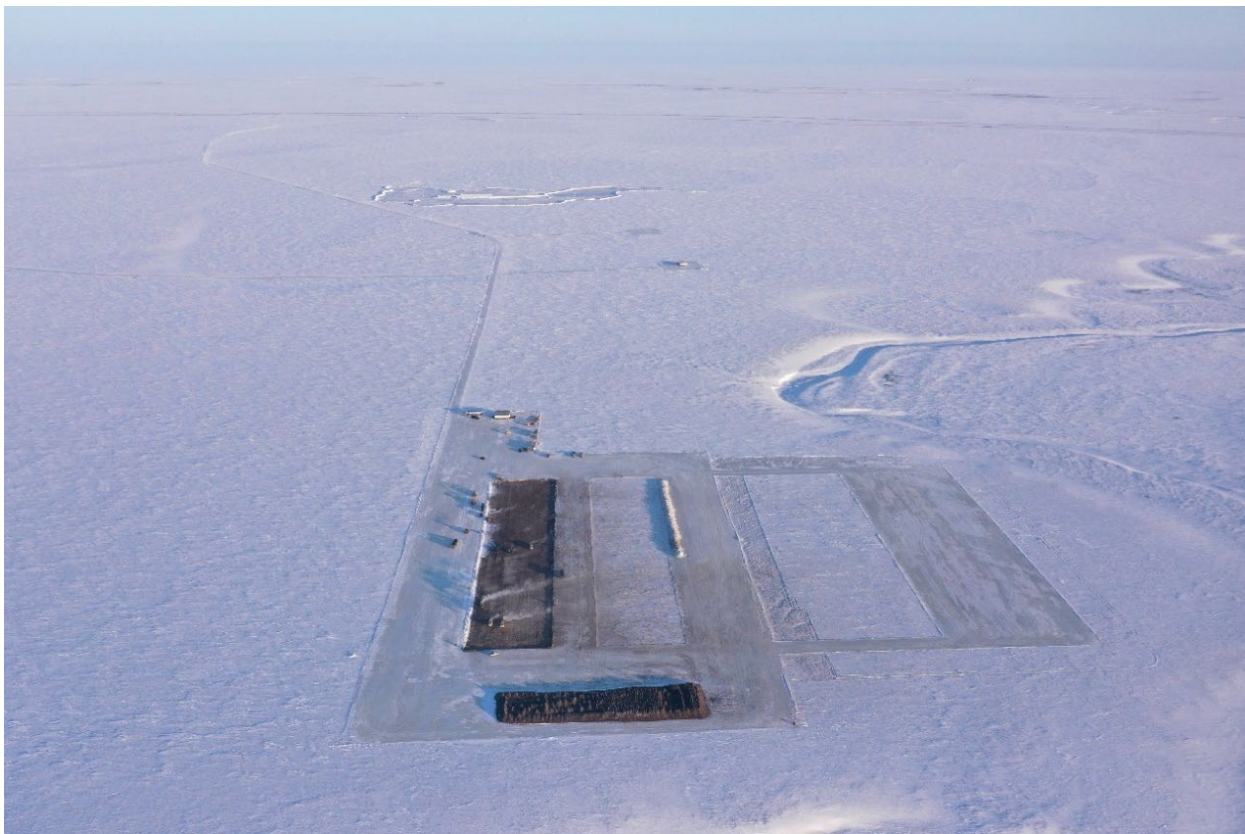
No. 23-35227

On Appeal from the
United States District Court for
the District of Alaska

No. 3:23-cv-00061-SLG
Hon. Sharon L. Gleason

**RESPONSE TO PLAINTIFFS' MOTION TO MODIFY BRIEFING
SCHEDULE**

ConocoPhillips Alaska, Inc. (“ConocoPhillips”) provides this response to Plaintiffs’ motions asking the Court to reconsider its scheduling order dated April 6, 2023 (Dkt. 7). The basis for Plaintiffs’ claimed emergency is their alleged harm related to a 10.4-acre area that is the site of a gravel mine. ConocoPhillips began construction at the mine site just after the district court denied Plaintiffs’ preliminary injunction motions. Work has proceeded every day since then, and, as of April 5, 2023, the site was completely cleared of vegetation. Work is ongoing to prepare the cleared area for gravel extraction. The photograph below depicts the site on April 6, 2023.



Given these circumstances, Plaintiffs (whose declarants' allegations of harm¹ are premised on the mine site in an undisturbed state) have identified no reason why a ruling from this Court sooner rather than later will grant them "meaningful and prompt relief." Dkt. 9 (CBD) at 4; Dkt. 9 (SILA) at 3; *see Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1288-89 (9th Cir. 2013) (purpose of injunction is not to remedy past injury); *Sierra Club v. Penfold*, 857 F.2d 1307, 1317-18 (9th Cir. 1988) ("no adequate remedy exists" where defendants "had already taken measures to proceed with mining operations"); *Schrier v. Univ. of Co.*, 427 F.3d 1253, 1267 (10th Cir. 2005) ("[t]he purpose of a preliminary injunction is not to remedy past harm"). Accordingly, ConocoPhillips respectfully requests the Court deny Plaintiffs' motions for reconsideration.

DATED: April 7, 2023.

STOEL RIVES LLP

By: /s/ Ryan P. Steen

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¹ ConocoPhillips disputes Plaintiffs' allegations of harm and the district court found that Plaintiffs failed to establish irreparable harm.

CERTIFICATE OF COMPLIANCE

I certify that:

(i) This document uses proportionally spaced, 14-point, roman style font and therefore complies with the typeface and type style requirements of Federal Rules of Appellate Procedure 32(a)(5) and (6); and

(ii) This document contains 265 words, excluding items exempted by Federal Rule of Appellate Procedure 32(f). When divided by 280, the word length of this document does not exceed to pages in compliance with Circuit Rules 27-1(1)(d) and 32-3(2).

/s/ Ryan P. Steen
Ryan P. Steen

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